REMARKS

Claims 1-17 were pending in the application. Claim 2 was cancelled without prejudice and claims 1, 3-16 have been amended. Therefore, claims 1 and 3-17 are currently pending.

No new matter has been added. Claim 1 has been amended to specify the specific structure of the deprenyl compound. Support for the amendments to claim 1 can be found, for example, at least in original claim 2 and at least at page 13, line 15 through page 14, line 12 of the specification as originally filed. Claims 3-17 have been amended to provide proper dependencies.

Cancellation of and/or amendments to the claims should in no way be construed as an acquiescence to any of the Examiner's objections and/or rejections. The cancellation of and/or amendments to the claims are being made solely to expedite prosecution of the above-identified application. Applicants reserve the option to further prosecute the same or similar claims in the present or another patent application. The amendments made to the claims are not related to any issues of patentability.

Rejection of Claims 1-17 under 35 U.S.C. 112, first paragraph

Claims 1-17 are rejected under 35 U.S.C. §112, second paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states that "[t]he claimed invention is directed to the 'rescuing damaged nerve cells in a patient' using the claimed deprenyl compounds" and that "such method requires treatment of unspecified disease and no evidence indicates that treatable disease was known to the applicant." The Examiner concludes that the fact pattern indicates that the artisan was not in possession of the claimed method of use.

Applicants respectfully traverse this rejection. Applicants submit that a skilled artisan in possession of the specification would have reasonably understood what the disorders are encompassed by the phrase "rescuing damaged nerve cells." For example, the specification as originally filed discloses, at least at page 13, lines 3-13, that the deprenyl compounds may be used to rescue damaged nerve cells in a animal and therefore may be used for the treatment of neurodegenerative and neuromuscular diseases, as well as for the treatment of acutely damaged nerve tissue. In addition, the Examples section provides detailed experimental procedures for testing the deprenyl compounds of the invention for rescuing nerve cells. In particular, Example 1 discloses the use of the deprenyl compounds of the invention rescuing nerve cells that have

undergone MPTP-induced neuronal death. Accordingly, a skilled artisan in possession of the specification at the time the invention was made would have reasonably understood what diseases and disorders the phrase "rescuing damaged nerve cells" refers to.

The Examiner also asserts that "[t]he claimed invention is also directed to the use of 'a deprenyl compound' and that "there is no evidence that there is any per se structure/function relationship between the disclosed deprenyl compounds and any others that might be found using the claimed method." Therefore, the Examiner argues that the claimed invention is not supported by an adequate written description.

Applicants respectfully traverse this rejection. Applicants submit that the present disclosure clearly meets the Written Description requirement and demonstrates that Applicants were in possession of the claimed invention at the time of filing. For example, Applicants note that the claim 1 and its dependent claims, as amended, encompass deprenyl compounds having a particular structure, *i.e.*, a compound of Formula 1, provided that the deprenyl compound is not deprenyl, pargyline, AGN-1133, or AGN1135.

Based at least on the foregoing, one of ordinary skill in the art would have recognized that Applicants were in possession of the claimed method for rescuing damaged nerve cells in a patient at the time the instant invention was made. Accordingly, Applicants request reconsideration and withdrawal of this rejection of claims 1-17 under 35 U.S.C. 112, first paragraph.

Rejection of Claims 1-17 Under the Judicially Created Doctrine of Obviousness-type Double Patenting

Claims 1-17 are rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14, 19 and 21 of U.S. Patent No. 5,844,003 (the '003 patent). Specifically, the Examiner states that "[t]he claims of the instant application are drawn to a method for rescuing damaged nerve cells in a patient using a deprenyl compound with the exclusion of certain deprenyl compounds" and that claims 1-14, 19 and 21 of the '003 patent "are directed to a method of rescuing damaged nerve cells in a patient using a specific deprenyl compounds." The Examiner concludes that "[s]uch compounds are within the scope of the claimed compounds."

Applicants respectfully submit that, while in no way admitting that the present claims are obvious over claims 1-14, 19 and 21 of U.S. Patent No. 5,844,003, upon allowance of the present claims, Applicants will consider submitting a terminal disclaimer in compliance with 37 C.F.R. 1.321(b) and (c), if appropriate, which will obviate the rejection.

SUMMARY

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

Dated: August 21, 2006

Respectfully submitted,

By _____

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